

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-8 and 22 are presently pending in this case. Claims 1 and 22 are amended by the present amendment. As amended Claims 1 and 22 are supported by the original disclosure,<sup>1</sup> no new matter is added.

In the outstanding Official Action, Claims 1 and 22 were rejected under 35 U.S.C. §112, second paragraph; Claims 1 and 22 were rejected under 35 U.S.C. §103(a) as unpatentable over Dobbs et al. (U.S. Patent No. 5,550,886, hereinafter “Dobbs”) in view of Sugihara et al. (U.S. Patent No. 6,341,152, hereinafter “Sugihara”); and Claims 2-8 were rejected under 35 U.S.C. §103(a) as unpatentable over Dobbs in view of Sugihara and further in view of Andrews (U.S. Patent No. 6,778,636).

With regard to the rejection of Claims 1 and 22 under 35 U.S.C. §112, second paragraph, that rejection is respectfully traversed.

With regard to the use of “configured to” phrases, the assertion in the outstanding Office Action that these phrases are only considered to recite an intended use<sup>2</sup> is contrary to case law that holds that features of an apparatus may be recited either structurally *or functionally*. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (Emphasis added.) Accordingly, the phrase “configured to” is used in a proper recitation of structural limitations that are defined functionally. For example, the collimator recited in Claim 1 includes structure that, when activated, sets the opening of the collimator to a first opening size to irradiate a first area and performs a first scan of a first scanning range.

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<sup>1</sup>See, e.g., the specification at paragraph 55.

<sup>2</sup>See the outstanding Office Action at page 2, lines 7-10.

Claims 1 and 22 are amended to define a first opening size and a first scanning range. Further, Claim 1 is amended to recite “external data from an area within the first scanning range but external to the second scanning range.” Claim 22 is amended to recite “external data in the first scanning range but outside the second scanning range.”

Accordingly, Claims 1 and 22 are in compliance with all requirements under 35 U.S.C. §112, second paragraph.

With regard to the rejection of Claims 1 and 22 under 35 U.S.C. §103(a) as unpatentable over Dobbs in view of Sugihara, that rejection is respectfully traversed.

Amended Claim 1 recites in part:

a controller configured to set the opening of the collimator to a first opening size to irradiate a first scanning range and configured to perform a first scan of the first scanning range, and to set the opening of the collimator in the channel direction to a second opening size to irradiate a second scanning range corresponding to the portion of the volume data and configured to perform a second scan of the second scanning range *such that the second scanning range receives an amount of X-ray greater than an area external to the second scanning range.* (Emphasis added.)

In contrast, Dobbs describes a tomography system where the radiation level is controlled to be substantially constant. For example, Dobbs states:

The sum of the outputs of all of the detectors 182a-182p corresponds to the magnitude of the total radiation incident upon the detector array. This value can be fed back to the X-ray source 40 and used to control the level of the radiation output to ensure *substantially constant X-ray levels for all of the projection views of a scan.*<sup>3</sup>

Thus, as Dobbs describes the use of a substantially constant radiation level for all views of a scan, it is respectfully submitted that Dobbs does not teach or suggest “a collimator” as defined in amended Claim 1. Further, Sugihara is not asserted as teaching or

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<sup>3</sup>Dobbs, column 11, lines 1-6. (Emphasis added.)

suggesting such a collimator. Consequently, Claim 1 (and Claims 2-8 dependent therefrom) is patentable over Dobbs in view of Sugihara.

Amended Claim 22 recites in part, “a reconstruction part configured to reconstruct image data based on data collected by the second scan and external data in the first scanning range but outside the second scanning range.”

Thus, the invention recited in Claim 22 reconstructs a computerized tomography image based on **both** first scan data and second scan data. The first scan data is used for the area outside the second scanning range, and the second scan data is used for the area inside the second scanning range. In contrast, neither Dobbs nor Sugihara teach or suggest “a reconstruction part” as defined in Claim 22. Consequently, Claim 22 is patentable over Dobbs in view of Sugihara.

With regard to the rejection of Claims 2-8 as unpatentable over Dobbs in view of Sugihara and further in view of Andrews, it is noted that Claims 2-8 are dependent from Claim 1, and thus are believed to be patentable for at least the reasons discussed above. Further, it is respectfully submitted that Andrews does not cure any of the above-noted deficiencies of Dobbs and Sugihara. Accordingly, it is respectfully submitted that Claims 2-8 are patentable over Dobbs in view of Sugihara and further in view of Andrews.

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Accordingly, the pending claims are believed to be in condition for formal allowance.

An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

*Edward Tracy*  
Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

Edward Tracy  
Registration No. 47,998

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